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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/523,270	01/31/2005	Jinsong Xu	9896-058/NP	5612
27572 7590 07/24/2007 HARNES, DICKEY & PIERCE, P.L.C. P.O. BOX 828 BLOOMFIELD HILLS, MI 48303			EXAMINER NOONAN, WILLOW W	
			ART UNIT 2109	PAPER NUMBER
			MAIL DATE 07/24/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/523,270	<b>Applicant(s)</b> XU ET AL.	
	<b>Examiner</b> Willow Noonan	<b>Art Unit</b> 2109	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 January 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>5/9/2007</u> . | 6) <input type="checkbox"/> Other: ____.  |

### **DETAILED ACTION**

1. The instant application having Application No. 10/523,270 has a total of 10 claims pending in the application; there is 1 independent claim and 9 dependent claims, all of which are ready for examination by the examiner.

#### ***Oath/Declaration***

2. The applicant's oath/declaration has been reviewed by the examiner and is found to conform to the requirements prescribed in 37 C.F.R. 1.63.

#### ***Priority***

3. As required by M.P.E.P. 201.14(c), acknowledgement is made of applicant's claim for priority based on applications filed on September 23, 2002 (China 02131775.5).

#### ***Drawings***

4. The applicant's drawings submitted are acceptable for examination purposes.

#### ***Information Disclosure Statement***

5. As required by M.P.E.P. 609(C), the applicant's submission of the Information Disclosure Statement dated March 10, 2005 is acknowledged by the examiner and the cited references have been considered in the examination of the claims now pending.

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As required by M.P.E.P 609 C(2), a copy of the PTOL-1449 initialed and dated by the examiner is attached to the instant office action.

***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1, 2, 3, and 5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, the phrases "so as to form different modules," "devices to be polled," and "devices whose connection states need to be detected " are ambiguous and need further explanation and a clearer description. Furthermore, the distinction between "devices to be polled" and "devices whose connection states need to be detected" is not apparent.

Regarding claim 2, the phrase "according to said periodical polling" is not sufficiently clear or definite. Additionally, the phrases "dispatching the polling," "implemented based on," and "the case of inserting a task" are ambiguous and need further explanation and a clearer description.

Regarding claim 3, the distinction between a "polling period" and a "polling interval" is not clear.

Claim 4 recites the limitation "the periodical polling is implemented." There is insufficient antecedent basis for this limitation in the claim.

Regarding claim 5, the distinction between a "polling period" and a "polling interval" is not clear. Furthermore, the limitation "equaling to a multiple of the interval between the periodical system polling" is not clear or definite, and it is not clear to which preceding phrase the limitation is directed.

***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

9. Claims 1-7 and 10 are rejected under 35 U.S.C. 102(e) as being anticipated by Sachse (U.S. Patent No. 6,985,901).

As per claim 1, Sachse teaches a dispatching method for polling device data. See Sachse, *Abstract*. Sachse teaches the step of sorting managed devices according to their types, sorting various types of data of each device so as to form different modules, and assigning a priority attribute and a polling period attribute to each module. See Sachse at col. 29, lines 63-67 ("Property groups allow categorization of managed devices into groups. The groups can be based on device types, location, priority supported MIBs, business function, or any other useful characteristic."); Sachse at col. 117 line 64 – col. 118, line 4 ("These agents poll for user-defined information on pre-

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selected intervals and typically push this data up to a central point of control.”). Sachse further teaches dividing the managed devices into two sets: one set consisting of devices to be polled (see Sachse at col. 124, lines 38-42, “tracking the status of the SNMP agent process on individual nodes”) and the other set consisting of devices whose connection states need to be detected (see Sachse at col. 124, lines 7-10, “Node Up and Node Down ... tracking an individual network component”). Sachse also teaches polling each module in the set consisting of devices to be polled according to its priority and polling period periodically. See Sachse at col. 117 line 64 – col. 118, line 4 (“These agents poll for user-defined information on pre-selected intervals and typically push this data up to a central point of control.”).

As per claims 2 and 7, Sachse teaches forming a current polling task queue according to said periodical polling, and dispatching the polling through the current polling task queue. See Sachse at col. 117 line 64 – col. 118, line 4 (“These agents poll for user-defined information on pre-selected intervals and typically push this data up to a central point of control.”). Sachse also teach that the data items for describing the current polling task queue (see Sachse at col. 115, line 45, “Trap Mask Definitions”) include task ID (see Sachse at col. 115, line 61, “‘Generic’ trap ID”), occupied information (see Sachse at col. 116, lines 3-6, “‘Trap Logger’ alarm and its associated Poll”), module ID (see Sachse at col. 115, line 59, “Project Name”), device ID (see Sachse at col. 115, line 49, “Server Name”), activation time (see Sachse at col. 116, lines 3-6, trap log file) and priority. Sachse teaches that the activation time may include the current time in the case of inserting a task and will be updated when a report about

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executing situation of the task sent from daemons has been received and that said occupied information may be set free after a corresponding message showing the polling task has been completed is received or the polling task is overtimed. See Sachse at col. 135-136 (log timestamp and detailed log information).

As per claim 3, Sachse further teaches setting a maximum number of polling tasks; wherein the current polling task queue is generated according to said maximum number of polling tasks. See Sachse at col. 177 ("The amount of RAM [determines] the number of nodes which you wish to manage").

As per claims 4 and 5, Sachse teaches setting a polling initiating time for system; wherein the periodical polling is implemented based on said polling initiating time plus a polling interval. See Sachse at col. 117 line 64 – col. 118, line 4 ("these agents poll for user-defined information on pre-selected intervals").

Regarding claim 6, Sachse teaches generating a data structure for describing device type after sorting managed devices according to their types and sorting various types of data of each device so as to form different modules. See Sachse at col. 29, lines 63-67 ("Property groups allow categorization of managed devices into groups. The groups can be based on device types, location, priority supported MIBs, business function, or any other useful characteristic."); Sachse at col. 117 line 64 – col. 118, line 4 ("These agents poll for user-defined information on pre-selected intervals and typically push this data up to a central point of control.").

Regarding claim 10, Sachse teaches selecting sequentially a device from the set consisting of devices whose connection states need to be detected and making ping

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operation for the device; wherein the success of ping operation shows said device is connected to the network management system and failure of ping operation shows said device is not connected to the network management system; if the connection state of said device is changed, notifying other daemons and foregrounds about this condition. See Sachse at col. 124, lines 6-18 ("Node Up and Node Down...when a node or interface fails to respond to a ping, a Node or Interface Down event for the specific node will be generated.").

### ***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sachse in view of Baldwin (U.S. Patent App. Pub. No. 2003/0154271).

Regarding claim 8, Sachse does not teach inserting polling tasks into a task queue. However, Baldwin teaches inserting tasks into a queue and sorting them based on priority. See Baldwin at p. 3, paragraph 36 ("task queue", "tasks in that queue may be treated on a priority basis"). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Baldwin's queue in Sachse' method because Baldwin teaches that its disclosed method facilitates the persistence of status and other data pertaining to storage area networks. See Baldwin at p. 1, paragraph 11.



Regarding claim 9, Sachse teaches polling the devices based on polling intervals. See Sachse at col. 117 line 64 – col. 118, line 4 (“these agents poll for user-defined information on pre-selected intervals”). Baldwin teaches inserting tasks into the task queue and executing those tasks in order of priority. See Baldwin at p. 3, paragraph 36 (“task queue”, “tasks in that queue may be treated on a priority basis”).

### ***Conclusion***

12. Please see the included *Notice of References Cited* for additional prior art considered pertinent to applicant’s disclosure but not explicitly relied upon in this action.

13. The examiner requests, in response to this Office action, support be shown for language added to any original claims on amendment and any new claims. That is, indicate support for newly added claim language by specifically pointing to page(s) and line no(s) in the specification and/or drawing figure(s). This will assist the examiner in prosecuting the application.

14. When responding to this office action, Applicant is advised to clearly point out the patentable novelty which he or she thinks the claims present, in view of the state of the art disclosed by the references cited or the objections made. He or she must also show how the amendments avoid such references or objections See 37 CFR 1.111(c).


15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Willow Noonan whose telephone number is (571) 270-1322. The examiner can normally be reached on Monday through Friday, 7:30 AM-5:00 PM EST.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Pwu can be reached on (571) 272-6798. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

*William Pwu*

  
JEFFREY PWU  
PRIMARY EXAMINER